

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Bobby Whelchel, #305025,)	C.A. #0:09-0578-PMD
)	
Petitioner,)	
)	
vs.)	ORDER
)	
Cecelia Reynolds, Warden,)	
)	
Respondent.)	
_____)	

This matter is before the court upon temporary remand from the U.S. Court of Appeals for the Fourth Circuit for the limited purpose of this court's ruling on the issuance of a certificate of appealability in the above referenced matter.


On December 1, 2009, the Rules Governing Section 2254 Cases in the United States District Courts were amended to require a District Court to issue or deny a certificate of appealability when a final ruling on a habeas petition is issued. The governing law provides that:

(c)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies this standard by demonstrating that reasonable jurists would find this court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debateable. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th. Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, a certificate of appealability is **DENIED**.

IT IS SO ORDERED.


PATRICK MICHAEL DUFFY
United States District Judge

February 10, 2010
Charleston, South Carolina